

¹ It is not entirely clear from the complaint whether they bought the car from Tesla, Inc., or Tesla Motors Massachusetts, Inc. (*See* Compl. ¶¶ 7, 9). The difference does not appear material for present purposes. The complaint also simply names “Tesla” as the defendant; defendant states that its proper name is Tesla, Inc.

pursue state-certified arbitration before commencing this action. *See id.*

The matter was referred to United States Magistrate Judge M. Page Kelley pursuant to 28 U.S.C. § 636(b)(1)(B) for a report and recommendation. On June 23, 2020, Magistrate Judge Kelley issued a report recommending that the motion be denied.

Tesla timely filed an objection to the report and recommendation. *See* Fed. R. Civ. P. 72(b). It objects to the following conclusions: (1) that the complaint adequately alleged that Tesla had made a reasonable number of attempts to cure any defects with the car; (2) that the complaint adequately alleged that the car's defects substantially impaired its use, market value, or safety; and (3) that the Lemon Law did not require plaintiffs to engage in state-certified arbitration before they could commence this action.

Upon *de novo* review of the report and recommendation of the Magistrate Judge, the Court hereby ADOPTS the recommendation. Accordingly, Tesla's motion to dismiss Count 1 of the complaint is DENIED.

So Ordered.

Dated: August 12, 2020

/s/ F. Dennis Saylor IV
F. Dennis Saylor IV
Chief Judge, United States District Court